

requested by the individual. When copies are made by the NIMA as a necessary incident to granting access to a record, a fee may not be charged.

(ii) The individual may not be charged for time spent in searching for requested records or for time spent in reviewing records to determine if they fall within the disclosure requirements of the Act.

(iii) The fee charged may not exceed the direct cost of making the copy.

(3) Certification and validation with the NIMA seal of documents will be available at \$2.00 for each certification.

(c) Fees charged for the above services are payable in advance by check, or money order payable to the Treasurer of the United States.

[40 FR 55543, Nov. 28, 1975. Redesignated at 57 FR 6074, Feb. 20, 1992, as amended at 62 FR 65021, Dec. 10, 1997]

§ 320.10 Penalties.

The Privacy Act of 1974 (5 U.S.C. 552a(i)(3)) makes it a misdemeanor subject to a maximum fine of \$5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. The Act also establishes similar penalties for violations by NIMA employees of the Act or regulations established thereunder.

[40 FR 55543, Nov. 28, 1975. Redesignated at 57 FR 6074, Feb. 20, 1992, as amended at 62 FR 65021, Dec. 10, 1997]

§ 320.11 Specific exemptions.

All systems of records maintained by the NIMA and its components shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12958 and that is required by Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein which contain isolated items of properly classified information.

[60 FR 7909, Feb. 10, 1995, as amended at 61 FR 2916, Jan. 30, 1996; 62 FR 65021, Dec. 10, 1997]

PART 321—DEFENSE INVESTIGATIVE SERVICE, PRIVACY ACT OF 1974

Sec.

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AUTHORITY: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

SOURCE: 40 FR 55546, Nov. 28, 1975, unless otherwise noted. Redesignated at 56 FR 55631, Oct. 29, 1991.

§ 321.1 Purpose and applicability.

(a) This part establishes rules, policies and procedures for the disclosure of personal records in the custody of the Defense Investigative Service (DIS) to the individual subjects, the handling of requests for amendment or correction of such records, appeal and review of DIS decisions on these matters, and the application of general and specific exemptions, under the provisions of the Privacy Act of 1974. It also prescribes other policies and procedures to effect compliance with the Privacy Act of 1974 and DoD Directive 5400.11.

(b) The procedures set forth in this part do not apply to DIS personnel seeking access to records pertaining to themselves which previously have been available. DIS personnel will continue to be granted ready access to their personnel, security, and other records by making arrangements directly with the maintaining office. DIS personnel should contact the Office of Information and Legal Affairs for access to investigatory records pertaining to themselves or any assistance in obtaining access to other records pertaining

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to themselves, and may follow the procedures outlined in these rules in any case.

[40 FR 55546, Nov. 28, 1975, as amended at 46 FR 35640, July 10, 1981. Redesignated at 56 FR 55631, Oct. 29, 1991]

§ 321.2 References.

(a) Pub. L. 93-579 (5 U.S.C. 552a) the Privacy Act of 1974.

(b) DoD Directive 5400.11, Personal Privacy and Rights of Individuals Regarding Their Personal Records, dated 4 August 1975.

(c) DIS Regulation 28-4, "Access to and Maintenance of DIS Personal Records".

(d) DoD Directive 5400.7, DoD Freedom of Information Program.

(e) Office of Management and Budget Guidelines for Implementation of the Privacy Act of 1974, dated 1 July 1975.

(f) DIS Manual for Personnel Security Investigations.

[40 FR 55546, Nov. 28, 1975, as amended at 46 FR 35640, July 10, 1981. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 57 FR 33124, July 27, 1992]

§ 321.3 Definitions.

(a) All terms used in this part which are defined in 5 U.S.C. 552a shall have the same meaning herein.

(b) As used in this part, the term *agency* means the Defense Investigative Service.

[46 FR 35640, July 10, 1981. Redesignated at 56 FR 55631, Oct. 29, 1991]

§ 321.4 Information and procedures for requesting notification.

(a) *General.* Any individual may request and receive notification of whether he is the subject of a record in any system of records maintained by DIS using the information and procedures described in this section.

(1) Paragraphs (b) and (c) of this section give information that will assist an individual in determining in what systems of DIS records (if any) he may be the subject. This information is presented as a convenience to the individual in that he may avoid consulting the lengthy systems notices elsewhere in the FEDERAL REGISTER.

(2) Paragraph (d) of this section details the procedure an individual

should use to contact DIS and request notification. It will be helpful if the individual states what his connection with DIS has or may have been, and about what record system(s) he is inquiring. Such information is not required, but its absence may cause some delay.

(b) *DIS Records Systems.* A list of DIS records systems is available by contacting Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324-1700.

(c) *Categories of individuals in DIS Record Systems.* (1) If an individual has ever been investigated by DIS, the investigative case file should be a record in system DIS 5-01. An index to such files should be in DIS 5-02.

(2) If an individual has ever made a formal request to DIS under the Freedom of Information Act or the Privacy Act of 1974, a record pertaining to that request under the name of the requester, or subject matter, will be in system DIS 1-01.

(3) If an individual is or has ever been a member of DIS, i.e., a civilian employee or appointee, or a military assignee, then he may be a subject of any of the 22 record systems depending on his activities, with the following exceptions:

(i) Civilian personnel will not be subjects of DIS 4-05.

(ii) Military personnel will not be subjects of systems DIS 4-06, 07, 08, or 09.

(4) Individuals who have been applicants for employment with DIS, or nominees for assignment to DIS, but who have not completed their DIS affiliation, may be subjects in systems DIS 4-02, 4-04, 5-01, 5-02, or 6-01.

(5) Any individual who is a subject, victim or cross-referenced personally in an investigation by an investigative element of any DoD component, may be referenced in the Defense Central Index of Investigations, system DIS 5-02, in an index to the location, file number, and custodian of the case record.

(6) Individuals who have ever presented a complaint to or have been connected with a DIS Inspector General inquiry may be subjects of records in system DIS 2-01.